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APPLICATION NO.	F	ILING DATE		FIRST NAMED INVENTOR	ATTOR	NEY DOCKET NO.	CONFIRMATION NO.	
10/666,116		09/18/2003		Scott Sibbett	ITL.0843US (P14804)		8422	
21906	7590	09/27/2006			EXAMINER			
TROP PRUNER & HU, PC					RODRIGUEZ, JOSEPH C			
1616 S. VOS HOUSTON,		, SUITE 750 057-2631			ART UNIT PAPER NUMBER			
11000101.,	111 //					3653		
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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary 10/666,116		r 							
Examiner Joseph C. Rodriguez 3653 - The MAILING DATE of this communication appears on the cover sheet with the correspondence address − Period for Repty A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. If NO period rearby is specified some, the maximum chattery period will supply and well expire its MONTH's from the mailing date of this communication. If NO period rearby is specified some, the maximum chattery period will supply and well expire its MONTH's from the mailing date of this communication. If NO period rearby is specified some, the maximum chattery period will supply and well expire its MONTH's from the mailing date of this communication. If NO period rearby is specified and provided in the communication is constructed. If NO period rearby is specified and provided in the communication is constructed. If NO period rearby is specified and the communication is constructed. If NO period rearby is specified and the communication is constructed. If NO period rearby is specified and the communication is constructed. If NO period rearby is specified and the communication is constructed. If NO period rearby is specified and the communication is constructed. If NO period rearby is specified and the provided rearby is specified and the communication. If NO period rearby is specified and the communication is constructed. If NO period rearby is specified and the communication is constructed. If NO period rearby is specified and the communication is constructed. If NO period rearby is specified and the provided rearby is specified and the communication. If NO period rearby is specified and the provided rearby is specified and the communication is constructed. If NO period rearby is specified representation is objected to by the Examiner. If NO period rearby is specified representation is objected to by the Examiner. If NO period rearby is specified representation is objected to by the E		Application No.	Applicant(s)						
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12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) ☐ All b) ☐ Some * c) ☐ None of: 1. ☐ Certified copies of the priority documents have been received. 2. ☐ Certified copies of the priority documents have been received in Application No 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. *Attachment(s) D) ☑ Notice of References Cited (PTO-892) Notice of Draftsperson's Patent Drawing Review (PTO-948) Paper No(s)/Mail Date S) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date S) ☐ Other:									
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Final Rejection

Applicant's arguments filed 3/13/06 have been fully considered but they are not persuasive for reasons detailed below.

The prior art rejections are maintained or modified as follows:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 21-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Soane et al. ("Soane")(US 5,750,015).

Regarding claims 21-27, 30-33, Soane (Fig. 2) teaches a method comprising applying an electric field gradient to a solution containing charged particles under conditions that will cause at least some of the charged particles to focus along the length of a first channel (22) formed in a device (col. 9, In. 38-col. 10, In. 12 teaching focusing of particles near at site 30 near second channel 24 using convective force; col. 4, In. 24-31) and

without transfer, applying an electric field to the focused charged particles to cause the focused charged particles to migrate through a sieve disposed in at least one second channel in said device, said at least one second channel situated proximate an area where at least some of said charged particles have focused, and said at least one

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second channel transverse to said first channel and in communication therewith (Id. teaching reaction and focusing of mixture along first channel 22 and then separation into second channels 24, 26, 28 via electric fields). Here, the use of a first and second electric field gradients manipulating positive or negative charged particles is implicit from the teaching of fine control of the mixture along the various separation channels and the teaching that the electrodes are "capable of generating fields in a variety of different ways in or order to move the cells or viruses through the field based on size, charge, or shape" (col. 9, In. 3-col. 10, In. 11). That is, Soane teaches the separation of materials of positive or negative electrical charges and simply adapting the electric field to that the specific charge type to move said materials.

Regarding claims 28, 29, Soane teaches controlling the mixture separation in the various channels by electrical connections contacting the movement area in the form of intelligent integrated circuitry which is interactive with a computer system that activates the various electric fields, thus a step of detecting said charged particles in said at least one second channel via a change in conductivity is implicit (Abstract; col. 3, ln. 15-26).

Response to Arguments

Applicant's arguments that the prior art fails to teach the claimed features are unpersuasive in view of the newly formulated prior art rejection set forth above.

Consequently, the claims stand rejected.

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Election/Restrictions

Applicant's election of claims 21-33 in the reply filed on 7/13/06 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Examiner has maintained the prior art rejections, statutory rejections and drawing objections as previously stated and as modified above. Applicant's amendment necessitated any new grounds of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion

Any references not explicitly discussed above but made of record are considered relevant to the prosecution of the instant application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Joseph C Rodriguez** whose telephone number is **571-272-6942** (M-F, 9 am – 6 pm, EST).

The **Official** fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

The examiner's UNOFFICIAL Personal fax number is 571-273-6942.

Further, information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system.

Status information for published applications may be obtained from either Private PMR or Public PAIR. Status information for unpublished applications is available through Private PMR only.

For more information about the PAIR system, see

http://pair-direct.uspto.gov

Should you have questions on access to the Private PMR system, contact the Electronic Business Center (EBC) at **866-217-9197** (Toll Free).

Alternatively, inquiries of a general nature or relating to the status of this application or proceeding can also be directed to the **Receptionist** whose telephone number is **571-272-6584** or to the Supervisory Examiner, Patrick Mackey, **571-272-6916**.

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Signed by Examiner Joseph Rodriguez

Jcr

September 23, 2006

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